

Notice of Allowability

Application No.

09/892,586

Examiner

Ayal I. Sharon

Applicant(s)

TURNER ET AL.

Art Unit

2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to After-Final Amendment filed 10/12/07.
2. ☒ The allowed claim(s) is/are 1-30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Introduction

1. Claims 1-30 of U.S. Application 09/892,586, amended on 10/12/2007, are currently pending.
2. The Examiner disagrees with Applicants' argument that the Final Rejection was improper. (See After-Final Amendment filed 10/12/2007, p.13). The Piché reference which was applied in the rejections in the Final Office action were not previously presented by the Applicants. The issue of whether this reference was similar to a previously presented reference is irrelevant.
3. The Examiner acknowledges that Applicant's previous statements regarding the prosecution status of the Saayar-Rodsari reference (See After-Final Amendment filed 10/12/2007, pp.14-15) were correct at the time they were made to the Office.

Examiner's Statement of Reasons for Allowance

4. Claims 1-30 are allowed.
5. The following is an examiner's statement of reasons for allowance for claims 1-30.

6. The Examiner is persuaded by Applicants' arguments that the amendments to the claims overcome the 35 USC § 101 rejections. (See After-Final Amendment filed 10/12/2007, pp.15-17). The 35 USC § 101 rejections have been withdrawn.
7. The prior art referred to in this Reasons for Allowance is as follows:
 - a. Stephen Piché et al. "Nonlinear Model Predictive Control Using Neural Networks." IEEE Control Systems Magazine. June 2000. pp.53-62.
("Piché").
 - b. Klimasauskas et al., U.S. Patent 5,877,954. ("**Klimasauskas**").
 - c. Bhat et al., U.S. Patent 5,477,444. ("**Bhat**").
8. The Examiner is persuaded by Applicants' arguments regarding the Piché reference. (See After-Final Amendment filed 10/12/2007, pp.17-21). The 35 USC § 102 rejections based on the Piché have been withdrawn.
9. The Examiner was persuaded in the Final Office Action that Applicants' arguments regarding the Klimasauskas and Bhat references. (See pp.33-39 of the amendment filed 6/11/07; and see p.14 of the Office Action dated 9/6/07). The 35 USC § 103 rejections based on the Klimasauskas and Bhat references were withdrawn in that Office Action.
10. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ayal I. Sharon whose telephone number is (571) 272-3714. The examiner can normally be reached on Monday through Thursday, and the first Friday of a biweek, 8:30 am – 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Rodriguez can be reached at (571) 272-3753.

Any response to this office action should be faxed to (571) 273-8300, or mailed to:

USPTO
P.O. Box 1450
Alexandria, VA 22313-1450

or hand carried to:

USPTO
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center 2100 Receptionist, whose telephone number is (571) 272-2100.

Ayal I. Sharon
Art Unit 2123
October 26, 2007


PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100